

REMARKS

Claims 2, 5-8, 10-14 and 31-33 are pending in this application. Claims 31 and 33 have been amended here. Reconsideration and allowance of all pending claims is respectfully requested.

Claims 2, 31, and 32 stand rejected under the doctrine of obviousness-type double patenting based on claims 1 and 2 of US Patent No. 6,609,576. Claims 2, 31, 32 and 33 stand rejected under the doctrine of obviousness-type double patenting based on claims 1, 10, 11, and 13 of US Patent No. 6,715,563. Without conceding the accuracy of the obviousness-type double patenting rejection, Applicants are filing a terminal disclaimer herewith to obviate the rejections.

Claim 31 stands rejected under 35 U.S.C. 112, 1st paragraph, as failing to comply with the written description requirement. This rejection is traversed as follows. The application as filed at page 9, lines 9-12, the application states:

In an embodiment of the invention in which it is desired to have the vibratory box 110 rotate at a preset angular speed, the leaf spring system 128 may be removed. In other words, by removing the leaf spring 154, the vibratory box 110 can rotated to do work. This facility is discussed below in connection with Fig. 8.

And as the Examiner properly noted in the office action, Fig. 8 is the elected species for this examining of this invention.

And again on page 9. line 26 to page 10, line 14:

Referring to Fig. 8, an embodiment of a ratchet gear system used with the invention is shown. In particular, a ratchet gear 166 is shown between a motor 148' and the vibratory box 110. In this embodiment, the leaf spring 154 may or may not be removed. In such a method, the vibration of the vibratory box 110 causes the same to rotate in a back and forth manner. However, the ratchet constrains the box to only acquire a net rotation in one or the other angular direction. In other words, the ratchet is resistant to angular movement in the other direction. It should be noted that in a related embodiment a belt may be run from an axle of the ratchet to yet another shaft. In either case, the driven shaft, if appropriately housed, may rotate in a manner such as may be appropriate to drive a drill or other piece of rotating equipment or to drive the vibratory device itself via, e.g., a belt chain or the like, to make the same self-propelled.

The ratchet 166 may also be mounted independently of the shaft that drives the weights, and can further use its own shaft to establish an oscillation. The ratchet 166 may be used in either direction for positive rotations. By using two ratchets, the same may be clutched in and out for reverse positive rotations of the shaft. Further, a pulley and appropriate mechanisms may be employed to allow the vibratory device to be thus self-propelled. Even further, the ratchet may be, instead of being

connected to the drive shaft, may be connected to the axle of the wheels, or to a shaft driven by either the axle or the driveshaft.

In other words, it is very clear that the elected species provides ample support for constraining the shaft and rotating the box. As claim 31 is not rejected on art, Applicant respectfully submits that this claim is now in allowable condition.

The Examiner has further rejected claims 2, 5-8, 10-14, 31, and 33 under 35 U.S.C. 112, 2nd paragraph, as indefinite. An amendment has been made to obviate these rejections. With regard to the Examiner's statement regarding no support for the term "constricting", the Examiner is directed to the text noted above.

The Examiner has further rejected claims 2, 6-8, 32, and 33 as unpatentable over Golobay in view of Vural. Essentially, the Examiner contends that Golobay discloses the overall system (elements 42, 52, 22, 44, and 70 as well as Fig. 2) and Vural discloses a ratchet (elements 7 and 1 and column 5 lines 5-10). This rejection is traversed with respect to the amended claims as follows.

First, Golobay fails to disclose a belt coupled between a first axle and a second axle. The belt cited by the Examiner, belt 54, is the belt which drives the eccentric weights, not the belt that runs between the axles to rotate a tool to do work. Golobay lacks such a belt because there is no second axle. As Golobay completely lacks this claim element, its combination with Vural fails as a *prima facie* case of obviousness and Applicant submits the rejection should be withdrawn.

Even assuming, *arguendo*, Golobay included this element, Golobay lacks other elements such that, when combined with Vural, the combination still fails to render obvious the claimed invention. In particular, Applicant agrees with the Examiner that a tool may be mounted to the output shaft 70. But the output shaft 70 is not driven by any type of rotation, as required by the claims. For this reason as well, Applicant submits the rejection should be withdrawn.

Even assuming, *arguendo*, that these deficiencies were met, Applicant respectfully submits that Vural is insufficient to provide that which the Examiner contends. In Vural, the gear ring or ratchet 7 cited by the Examiner is driven by the rotation of the first axle, as are the eccentric weights. The gear ring 7 of Vural is lockably adjusted by a hydraulic pawl 18. The ratchet is adjustable in this fashion so that the user can adjust the vibration amplitude. In the current system, the ratchet is not driven by the rotation of the axle that drives the eccentric weights. Rather, as claimed, the ratchet is mounted to the housing, and the vibration of the housing causes the rotation of the axle due to the ratcheting effect.

So even assuming all the elements in Golobay that are lacking were present, the combination of Golobay and Vural fails as a *prima facie* case of obviousness and Applicant respectfully submits the rejection should be withdrawn.

As the independent claims are in allowable condition as noted above, Applicant submits the claims dependent therefrom are similarly allowable. Applicant respectfully submits that the foregoing arguments place this application in condition for allowance. Applicants invite the Examiner to contact the undersigned to clarify any unresolved issues raised by this response. The foregoing represents a *bona fide* attempt to advance the present case to allowance. Applicants respectfully request early notification of the same.

No additional fee is believed to be due in connection with this paper. However, if any fees are due in connection with this filing, please charge the fees to Deposit Account No. 50-1047.

Respectfully submitted,

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/Mark Wieczorek Reg. No. 37,966/
By: _____
Mark D. Wieczork
Attorney for Applicant
Registration No. 37,966

Mayer & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090
Telephone: (562) 244-5671
Fax: (908) 518-7795